IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 32675 of 2006(M)

PETITIONER:

K.A.SUBRAMANIAN,
SREE LAKSHMI, KARYATTUKARA,
ELTHURUTHU, THRISSUR.

BY ADV. SMT.I.SHEELA DEVI
SMT.M.SINDHU THANKAM

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
THRISSUR.

2. THE REVENUE DIVISIONAL OFFICER,
THRISSUR.

3. THE PRINCIPAL AGRICULTURE OFFICER,
THRISSUR.

4. ADDITIONAL TAHSILDAR,
TALUK OFFICE, THRISSUR.

5. VILLAGE OFFICER,
VILLAGE OFFICE, ARANATTUKARA.

BY GOVERNMENT PLEADER SMT. R. BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/02/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P2 TRUE COPY OF THE REPORT SUBMITTED BY THE 5TH RESPONDENT ON 2.9.2005

EXT.P2(a) TRUE COPY OF THE REPORT SUBMITTED BY THE 4TH RESPONDENT ON 13.10.2005

EXT.P2(b) TRUE COPY OF THE PROFORMA REPORT SUBMITTED BY THE 4TH AND 5TH RESPONDENTS.

EXT.P3 TRUE COPY OF THE REPORT SUBMITTED BY THE 3RD RESPONDENT.

EXT.P4 TRUE COPY OF THE ORDER OF THE FIRST RESPONDENT DATED 31.10.2006 ISSUED TO THE PETITIONER.

EXT.P5 TRUE COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT.\

EXT.P6 TRUE COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 8.3.93 SMT. VINODINI.

EXT.P6(a) TRUE COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 8.3.1993 TO SMT. VINODINI.

EXT.P7 TRUE COPY OF THE REPORT SUBMITTED BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 32675 OF 2006

Dated this the 21st day of February, 2007

JUDGMENT

The prayer in the W.P. is for direction to the first respondent to permit the petitioner to convert the paddy land to garden land for construction of house for petitioner's children. Government Pleader reported that petitioner himself has taken a conflicting stand by stating that filling is for cultivation of other crop. In any case, it is clear from the report of the Agrl. Officer and RDO that the land is unfit for paddy cultivation and is kept idle as marshy land for long. If the land owned by the petitioner is not fit for cultivation of paddy, then I see no reason why petitioner should not be allowed to use it for other purposes, whether it be for construction of building or for cultivation of other crop. The only question to be considered is whether filling of same land by the petitioner will affect adjoining owners and enjoyment of their property and affect their cultivational right. If others in the area are not cultivating paddy, and if filling of petitioner's land does not cause obstruction to their cultivation or flow of water to their property,

then there will be direction to the first respondent to grant permission to the petitioner to fill the land. Petitioner will produce a copy of this judgment before the first respondent for compliance.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge